

HOUSE BILL 366

N1

11r2140
CF SB 205

By: **Delegate Niemann**

Introduced and read first time: February 3, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2011

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Residential Property Foreclosure Procedures – Accuracy of**
3 **Notice of Intent to Foreclose**

4 FOR the purpose of requiring that a certain ~~notice of intent to foreclose be signed by~~
5 ~~an agent of the secured party; requiring that the agent make a certain~~
6 ~~affirmation under penalties of perjury~~ affidavit regarding the accuracy of the
7 contents of a certain intent to foreclose be included in an order to docket or a
8 complaint to foreclose on a mortgage or deed of trust on residential property;
9 providing for the application of this Act; and generally relating to foreclosure of
10 a mortgage or deed of trust on residential property.

11 BY repealing and reenacting, with amendments,
12 Article – Real Property
13 Section ~~7-105.1(e)~~ 7-105.1(d)(1)
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2010 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Real Property**

19 7-105.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(e) (1) Except as provided in subsection (b)(2)(iii) of this section, at least~~
2 ~~45 days before the filing of an action to foreclose a mortgage or deed of trust on~~
3 ~~residential property, the secured party shall send a written notice of intent to foreclose~~
4 ~~to the mortgagor or grantor and the record owner.~~

5 ~~(2) The notice of intent to foreclose shall be sent:~~

6 ~~(i) By certified mail, postage prepaid, return receipt requested,~~
7 ~~bearing a postmark from the United States Postal Service; and~~

8 ~~(ii) By first class mail.~~

9 ~~(3) A copy of the notice of intent to foreclose shall be sent to the~~
10 ~~Commissioner of Financial Regulation.~~

11 ~~(4) The notice of intent to foreclose shall:~~

12 ~~(i) Be in the form that the Commissioner of Financial~~
13 ~~Regulation prescribes by regulation; [and]~~

14 ~~(ii) Contain:~~

15 ~~1. The name and telephone number of:~~

16 ~~A. The secured party;~~

17 ~~B. The mortgage servicer, if applicable; and~~

18 ~~C. An agent of the secured party who is authorized to~~
19 ~~modify the terms of the mortgage loan;~~

20 ~~2. The name and license number of the Maryland~~
21 ~~mortgage lender and mortgage originator, if applicable;~~

22 ~~3. The amount required to cure the default and reinstate~~
23 ~~the loan, including all past due payments, penalties, and fees;~~

24 ~~4. A statement recommending that the mortgagor or~~
25 ~~grantor seek housing counseling services;~~

26 ~~5. The telephone number and the Internet address of~~
27 ~~nonprofit and government resources available to assist mortgagors and grantors facing~~
28 ~~foreclosure, as identified by the Commissioner of Financial Regulation;~~

29 ~~6. An explanation of the Maryland foreclosure process~~
30 ~~and time line, as prescribed by the Commissioner of Financial Regulation; and~~

1 ~~7. Any other information that the Commissioner of~~
2 ~~Financial Regulation requires by regulation; AND~~

3 ~~(H) BE SIGNED BY AN AGENT OF THE SECURED PARTY, WHO~~
4 ~~SHALL AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF~~
5 ~~THE NOTICE OF INTENT TO FORECLOSE ARE TRUE TO THE BEST OF THE AGENT'S~~
6 ~~KNOWLEDGE, INFORMATION, AND BELIEF.~~

7 ~~(5) The notice of intent to foreclose shall be accompanied by:~~

8 ~~(i) A loss mitigation application:~~

9 ~~1. For loss mitigation programs that are applicable to~~
10 ~~the loan secured by the mortgage or deed of trust that is the subject of the foreclosure~~
11 ~~action; or~~

12 ~~2. If the secured party does not have its own loss~~
13 ~~mitigation application, in the form prescribed by the Commissioner of Financial~~
14 ~~Regulation;~~

15 ~~(ii) Instructions for completing the loss mitigation application~~
16 ~~and a telephone number to call to confirm receipt of the application;~~

17 ~~(iii) A description of the eligibility requirements for the loss~~
18 ~~mitigation programs offered by the secured party that may be applicable to the loan~~
19 ~~secured by the mortgage or deed of trust that is the subject of the foreclosure action;~~
20 ~~and~~

21 ~~(iv) An envelope preprinted with the address of the person~~
22 ~~responsible for conducting loss mitigation analysis on behalf of the secured party for~~
23 ~~the loan secured by the mortgage or deed of trust that is the subject of the foreclosure~~
24 ~~action.~~

25 (d) An order to docket or a complaint to foreclose a mortgage or deed of trust
26 on residential property shall:

27 (1) Include:

28 (i) If applicable, the license number of:

29 1. The mortgage originator; and

30 2. The mortgage lender; and

31 (ii) An affidavit stating:

1 1. The date on which the default occurred and the
2 nature of the default; and

3 2. If applicable, that [a]:

4 A. A notice of intent to foreclose was sent to the
5 mortgagor or grantor in accordance with subsection (c) of this section and the date on
6 which the notice was sent; and

7 B. AT THE TIME THE NOTICE OF INTENT TO
8 FORECLOSE WAS SENT, THE CONTENTS OF THE NOTICE OF INTENT TO
9 FORECLOSE WERE ACCURATE; AND

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply only prospectively and may not be applied or interpreted to have
12 any effect on or application to any order to docket or complaint to foreclose on
13 residential property filed before July 1, 2011.

14 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.